

## ***Occupational Disease Evaluations***

The Workers' Compensation Claims Assistance Bureau of the Employment Relations Division is responsible for the occupational disease (OD) evaluation process. The process is used to determine whether a claimant's condition is a result of the employment and to determine compensability of claims under the OD statutes when an insurer has not accepted liability for the claim.

The process requires the claimant to attend a medical evaluation directed by the Department. The medical evaluator submits a report of findings to the Department. A copy of the report is then sent to the claimant and the insurer. Upon receipt of the report, if a dispute exists over initial compensability as an OD, it is a dispute that after mediation is subject to the jurisdiction of the Workers' Compensation Court.

### **Occupational Disease Cases By Plan Type<sup>1</sup> and Fiscal Year**

<b>Plan Types</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>
Plan 1	47	40	29	30
Plan 2	86	82	63	64
Plan 3	58	45	81	96
<b>Total</b>	<b>191</b>	<b>167</b>	<b>173</b>	<b>190</b>

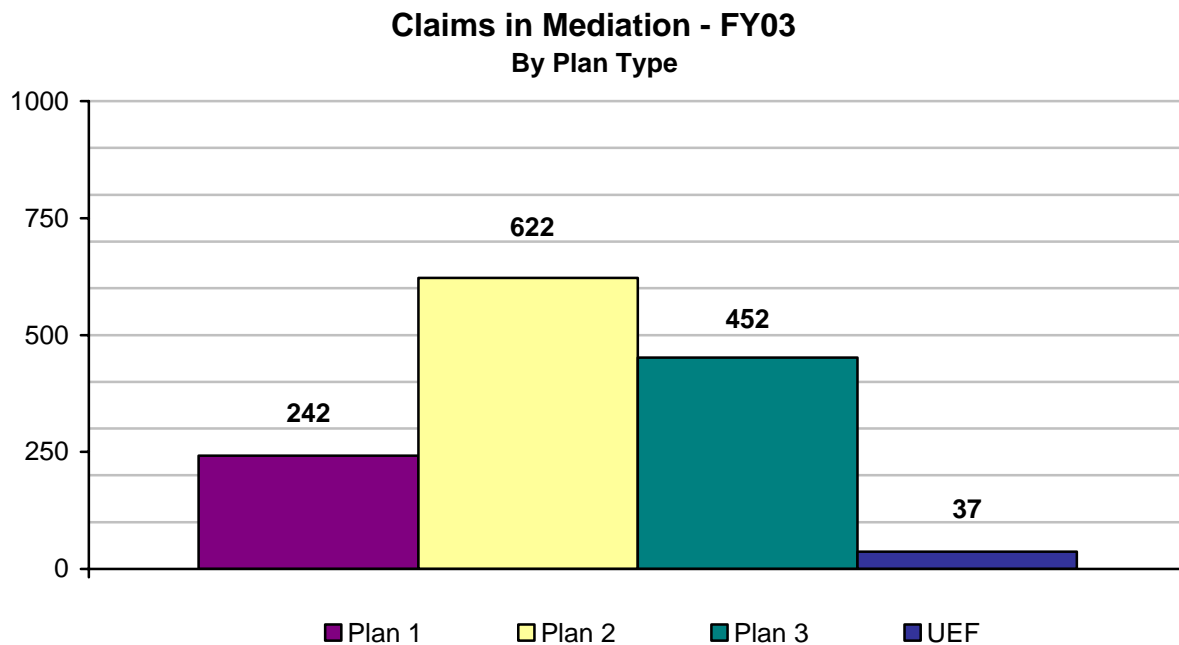
**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance and Plan 3 – Montana State Fund



## Mediation

The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and occupational disease claims. The mediation process is confidential, non-binding and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are held either in person in Helena or by telephone conference. Often more than one conference is held in order to resolve the disputes on a claim. In FY03, the Mediation Unit received and processed 1,232 petitions, which involved 1,353 claims. A petition is a request for mediation and may include multiple claims.



**Claims in Mediation**  
By Plan Type<sup>1</sup> and Fiscal Year

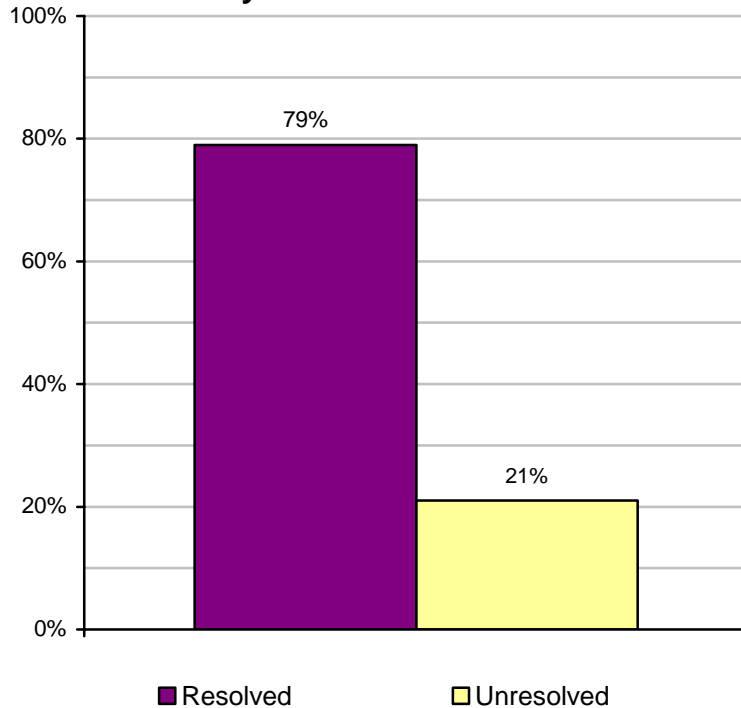
Plan Types	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan1	183	15%	201	15%	228	17%	249	18%	242	18%
Plan 2	463	39%	602	46%	650	49%	680	49%	622	46%
Plan 3	515	43%	470	36%	427	32%	443	32%	452	33%
UEF	26	2%	28	2%	29	2%	26	2%	37	3%
<b>Totals<sup>2</sup></b>	<b>1,187</b>	<b>100%</b>	<b>1,301</b>	<b>100%</b>	<b>1,334</b>	<b>100%</b>	<b>1,398</b>	<b>100%</b>	<b>1,353</b>	<b>100%</b>

**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund and UEF – Uninsured Employers Fund

<sup>2</sup>Total count represents number of claims not number of petitions and updated from previous years reports.

### Percent of Petitions Resolved by Mediation - FY03



- Over the past five years Mediation has had an average resolution rate of 80%.
- From the date of the petition receipt to issuing a written recommendation, the average completion time for mediation was 36 days in FY03.

### Petitions<sup>1</sup> Received by Mediation By Fiscal Year

Petitions Received	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Pending <sup>2</sup>	2	1%	4	1%	2	1%	14	1%	122	10%
Closed	1,089	99%	1,164	99%	1,193	99%	1,246	99%	1,110	90%
<b>Total Petitions Received</b>	<b>1,091</b>	<b>100%</b>	<b>1,168</b>	<b>100%</b>	<b>1,195</b>	<b>100%</b>	<b>1,260</b>	<b>100%</b>	<b>1,232</b>	<b>100%</b>
Resolved	901	83%	941	81%	964	81%	963	77%	873	79%
Unresolved	188	17%	223	19%	229	19%	283	23%	237	21%
<b>Total Petitions Closed</b>	<b>1,089</b>	<b>100%</b>	<b>1,164</b>	<b>100%</b>	<b>1,193</b>	<b>100%</b>	<b>1,246</b>	<b>100%</b>	<b>1,110</b>	<b>100%</b>

**Notes:**

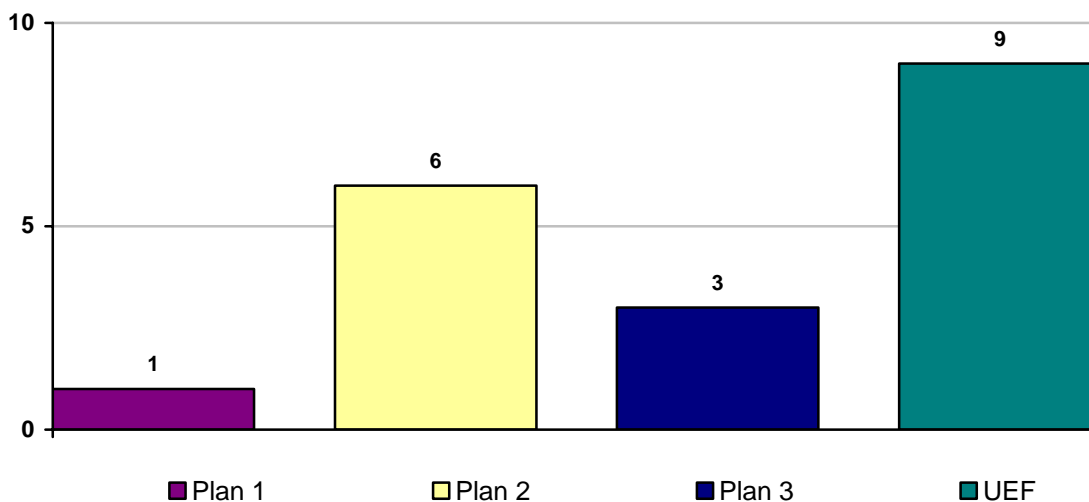
<sup>1</sup>A single petition may include multiple claims and/or multiple insurers.

<sup>2</sup>Eventual outcome of pending petitions will affect percent resolved.

## Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by the Employment Relations Division, assessments of penalties for uninsured employers, medical disputes between providers and insurers when payments to the claimant are not an issue and regulation of attorney fees. The numbers of cases being heard by the Hearings Bureau has been declining since FY98, when the Legislature transferred responsibility for hearing occupational disease claims to the Workers' Compensation Court. In FY03, the Hearings Bureau received 19 new requests for contested case hearings.

**Petitions Received by the Hearings Bureau- FY03**  
By Plan Type<sup>1</sup>



**Petitions Received by the Hearings Bureau**  
By Plan Type<sup>1</sup> and Fiscal Year

Plan Types	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	16	23%	5	16%	0	0%	0	0%	1	5%
Plan 2	21	30%	14	45%	12	63%	7	44%	6	32%
Plan 3	14	20%	6	19%	1	5%	2	13%	3	16%
UEF	18	26%	6	19%	6	32%	6	38%	9	47%
PEO	N/A	N/A	N/A	N/A	N/A	N/A	1	6%	N/A	N/A
<b>Total<sup>2</sup></b>	<b>69</b>	<b>100%</b>	<b>31</b>	<b>100%</b>	<b>19</b>	<b>100%</b>	<b>16</b>	<b>100%</b>	<b>19</b>	<b>100%</b>

**Notes:**

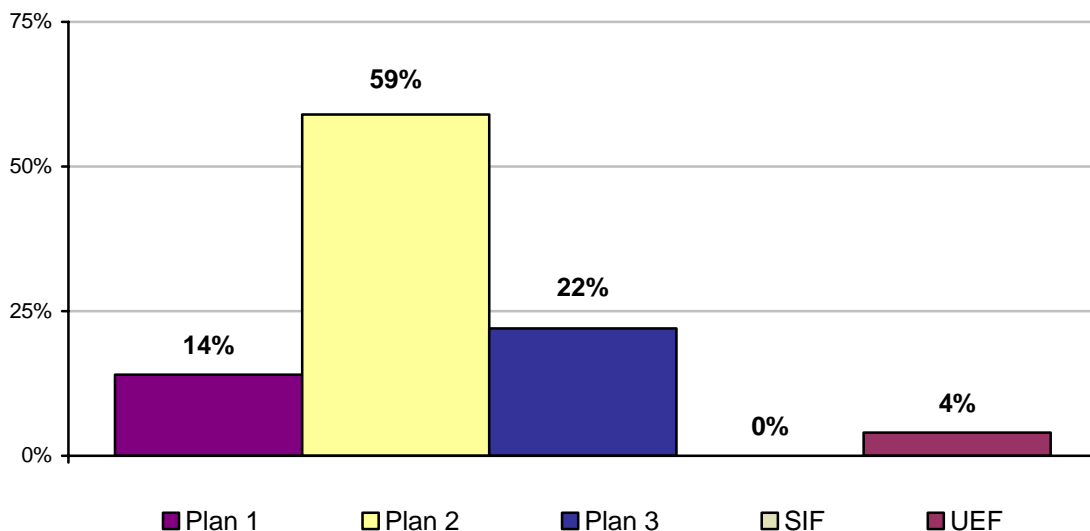
<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, UEF – Uninsured Employers Fund and PEO – Professional Employer Organization.

<sup>2</sup>Columns may not sum to 100% due to rounding.

## ***Workers' Compensation Court***

The Workers' Compensation Court (WCC) resolves disputes between insurers or employers and workers disabled as a result of occupational injuries or diseases. The Court has original jurisdiction over benefit issues arising under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after 07-01-1987, disputes must first be mediated. The Court's exclusive jurisdiction also extends to disputes involving independent contractor exemptions under both the Workers' Compensation and Unemployment Insurance Acts, enforcement of the Department of Labor and Industry's subpoenas, civil penalties for violations of workers' compensation provisions and the two-year return to work preference specified in section 39-71-317(2), MCA.

**Percent of Petitions Received by the WCC - FY03**  
By Plan Type<sup>1</sup>



**Petitions Received by the WCC**  
By Plan Type<sup>1</sup> and Fiscal Year

Plan Type	FY99		FY00		FY01		FY02		FY03	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Plan 1	18	7%	23	9%	14	6%	29	12%	34	14%
Plan 2	136	50%	118	45%	144	60%	140	56%	139	59%
Plan 3	95	35%	86	33%	65	27%	62	25%	53	22%
SIF	0	0	0	0	1	0%	1	0%	1	0%
UEF	21	8%	34	13%	15	6%	16	6%	9	4%
<b>Total by Plan<sup>2</sup></b>	<b>270</b>	<b>100%</b>	<b>261</b>	<b>100%</b>	<b>239</b>	<b>99%<sup>3</sup></b>	<b>248</b>	<b>100%</b>	<b>236</b>	<b>100%</b>
<b>Total</b>	<b>266</b>	<b>100%</b>	<b>255</b>	<b>100%</b>	<b>228</b>	<b>99%<sup>3</sup></b>	<b>243</b>	<b>100%</b>	<b>229</b>	<b>100%</b>

**Notes:**

<sup>1</sup>Plan types: Plan 1 – Self-Insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund

<sup>2</sup>Petitions may involve more than one plan type.

<sup>3</sup>Columns may not sum 100% due to rounding.

**Decisions by the WCC  
By Fiscal Year**

<b>Decisions</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>
Telephone Conference Resulting in Disposition	0	0	0	3	0
Bench Rulings without Written Decisions	3	1	3	2	0
Decisions	61	66	90	103	145
Orders on Appeal	4	8	0	4	0
Substantive Orders	22	36	64	26	32
Attorney Fee Orders	2	1	7	0	5
Orders on Cost	13	5	4	14	15
Disposed of by Telephonic Conference	0	0	0	2	0
Subtotals	105	117	167	152	197
Petitions Dismissed by Agreement	157	175	136	118	72
<b>Totals</b>	<b>262</b>	<b>292</b>	<b>303</b>	<b>270</b>	<b>269</b>

**Full and Final Compromise Settlements by the WCC  
By Plan Type<sup>1</sup> and Fiscal Year**

<b>Plan Type</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>FY02</b>	<b>FY03</b>
Plan 1 Self-Insured	12	11	5	5	5
Plan 2 Private Insurers	27	18	23	16	12
Plan 3 State Compensation Ins. Fund	56	47	41	24	24
Plan 4 Subsequent Injury Fund	0	0	0	0	0
Plan 5 Uninsured Employers Fund	0	0	0	0	0
<b>Total</b>	<b>95</b>	<b>76</b>	<b>69</b>	<b>45</b>	<b>41</b>

**Note:**

<sup>1</sup>Plan types: Plan 1 – Self-insured Employers, Plan 2 – Private Insurance, Plan 3 – Montana State Fund, SIF – Subsequent Injury Fund and UEF – Uninsured Employers Fund